



Top Ten Nexus Survival Tips

1. Do not underestimate nexus.

Not knowing about nexus can have a devastating effect on you and your company. If a state determines you have nexus, there is generally not a statute of limitations on how far back they can audit you. In theory, the state can go back to the date you started to do business in the state, although in reality, they usually stay in the seven- to 10-year range. But seven to 10 years is still a long time. Then, not only can you end up paying back taxes but they tack on penalty and interest as well. The dollars can start to add up quickly, especially if the states share information. In some extreme cases, criminal penalties may also apply.

2. Educate yourself.

Learn about nexus and see how it applies to your company's operations. Stay abreast of nexus changes as well as changes in your business. A number of resources are available, but free webinars are a good place to start. There are also a handful of firms that can help.

3. Do not assume you are OK.

Just because you have not been contacted by a state yet does not mean you are OK. You may be OK, or it may mean that the state just hasn't found you yet. Some common ways states find you are through audits of your vendors or customers, disgruntled employees reporting you, or your competitors turning you in. There are many other ways, but these are three of the big ones.

4. Do not assume that your current CPAs fully understand nexus.

CPAs are usually very good at what they do. The problem is that many of them don't focus on state and local taxes, and some of those that do only focus on a handful of states. You may be surprised to learn that their knowledge of multi-state nexus issues is no better than yours.

Questions to ask your CPA:

- + What percentage of your practice deals with sales and use tax?
- + How do you stay on top of the evolving issues in each state?

5. Do not assume that your employees are keeping you compliant.

Ask your employees how they stay abreast of nexus changes. Do they monitor operations and see how changes in the way you do business impacts nexus? How do they educate themselves? Who do they go to for answers or clarifications? Are you giving them the tools that they need? If you have doubts, consider doing a nexus consultation and analysis, either internally or by a third party.

6. Do not assume that your competitors are approaching nexus correctly.

This is a perfect example of something my father told me over and over: “Just because everyone else is doing it doesn’t make it right.” How true this is. Maybe your competitor has it right, but maybe not. Maybe they just haven’t been discovered yet. This may become a case of the blind leading the blind. How do you know that your competitors are not following you? Where are your competitors getting their information? Perhaps the best question to ask is, if the state finds you, will your competitor pay the money you owe? I would say no, therefore, educate yourself.

7. Do not stick your head in the sand.

If you have nexus, do not wait for the state to find you. The longer you wait, the greater your liabilities grow as there is no statute of limitations. The second reason is that there is a program called a voluntary disclosure agreement (VDA) that states offer to entice you to come forward. The VDA program usually limits the period a state will look back to 3 or 4 years, as well as waiving penalties or all or part of the interest. The drawback is that if the state finds you before you come forward, then you are usually not eligible to participate in the program.

8. Do not answer a nexus questionnaire without fully understanding your exposure.

When a state becomes aware of you, they will usually send out a questionnaire about your activities in the state. Before you answer the questionnaire, you should not only understand what your exposure is, but what options are available. Once you return that questionnaire, your options may be limited.

9. Do not just get registered if you find out you have nexus.

This may seem counter-intuitive, but remember that there is no statute of limitations if you have not filed appropriate returns. Once you come forward and get registered, you’ve lost the one small advantage and leverage you had. The state now knows who you are, and the state can go back and audit you for all the past periods. You will definitely want to look at a VDA or amnesty program.

10. Do not panic.

If you think you might have nexus or have been contacted by a state, do not panic. There are programs you can take advantage of and a handful of firms that can help. You are not alone and are not unique. You can rest assured that many before you have had the same problems and have been helped. Just remember: Do NOT ignore this issue. Not only does it not go away, it gets worse with time.



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